

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFIC BIOSCIENCES OF CALIFORNIA, INC,
Petitioner

v.

THE CHINESE UNIVERSITY OF HONG KONG,
Patent Owner

Case **IPR2024-00028**
Patent No. **11,091,794 B2**

**PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE
UNDER 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner submits the following objections to Exhibit Nos. 1047 and 1048 which were filed by Petitioner, Pacific Biosciences of California, Inc., with its Petitioner's Reply on October 28, 2024. Patent Owner's objections apply equally to Petitioner's reliance on these exhibits in its Petition or any subsequently-filed documents regarding same. These objections are timely, having been served within five (5) business days of service of evidence to which these objections are directed.

Exhibit 1047

Patent Owner objects to Exhibit 1047 (DNA Modification Detection with SMRT® Sequencing Using R) as not properly authenticated under FRE 901 because Petitioner has not presented sufficient evidence that the document is authentic nor that the document is self-authenticating under FRE 902. To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807. Moreover, this exhibit fails to relate or respond to "arguments raised in the corresponding opposition, patent owner preliminary response, patent owner response, or decision on institution," as required by 37 CFR § 42.23(b).

Patent Owner further objects to Exhibit 1047 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The exhibit does not include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission, making it irrelevant and inadmissible under FRE 401 and 402. Patent owner also objects to this exhibit to the extent that it is an excerpt and not the complete document pursuant to FRE 106. Additionally, this exhibit is an inadmissible duplicate pursuant to FRE 1002 and 1003 because it is an incomplete copy.

Patent Owner notes that Exhibit 1047 was introduced at the deposition of Dr. Peter Koo on October 15, 2024, and Patent Owner's counsel objected on the record to this Exhibit. EX1049, 120:8-13; 120:23-121:5; 123:2-5.

Exhibit 1048

Patent Owner objects to Exhibit 1048 (Pacific Biosciences Press Release) as not properly authenticated under FRE 901 because Petitioner has not presented sufficient evidence that the document is authentic nor that the document is self-authenticating under FRE 902. To the extent Petitioner relies on the contents of this exhibit for the truth of the matter asserted, Patent Owner objects to such content as inadmissible hearsay under FRE 801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807. Moreover, this

exhibit fails to relate or respond to “arguments raised in the corresponding opposition, patent owner preliminary response, patent owner response, or decision on institution,” as required by 37 CFR § 42.23(b).

Patent Owner further objects to Exhibit 1048 as creating unfair prejudice, confusing the issues, or as a waste of time pursuant to FRE 403. The exhibit does not include any fact of consequence, nor does it have any tendency to make a fact more or less probable than it would be without its admission, making it irrelevant and inadmissible under FRE 401 and 402. Patent owner also objects to this exhibit to the extent that it is an excerpt and not the complete document pursuant to FRE 106. Additionally, this exhibit is an inadmissible duplicate pursuant to FRE 1002 and 1003 because it is an incomplete copy.

In view of the foregoing objections, Patent Owner likewise objects to any testimony or argument purporting to rely on Petitioner’s Exhibit Nos. 1047 or 1048. Furthermore, Patent Owner objects to paragraphs in the Petitioner’s Reply that rely on exhibits objected to in this Patent Owner’s Objection to Evidence.

Respectfully submitted,

Date: November 4, 2024 By: / Joseph P. Hamilton /
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Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that service on Petitioner was made as follows, in accordance with 37 CFR 42.6(e):

Date of service: November 4, 2024

Manner of service: 1. Electronic submission through the USPTO Patent Trial and Appeal Board P-TACTS System
2. Electronic mail

Document(s) served: **PATENT OWNER'S OBJECTIONS TO
PETITIONER'S EVIDENCE UNDER 37 C.F.R. §
42.64(b)(1)**

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